UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,371	03/12/2004	Carl Vernon Venters III	07650007US	6069

23345   7590   12/27/2006
MCGUIREWOODS, LLP
1750 TYSONS BLVD
SUITE 1800
MCLEAN, VA 22102

EXAMINER
REVAK, CHRISTOPHER A

ART UNIT	PAPER NUMBER
2131	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/27/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 October 2006*.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36,58-106,133 and 134* is/are pending in the application.

　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36,58-106,133 and 134* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　a)☐ All　b)☐ Some * c)☐ None of:

　　1.☐ Certified copies of the priority documents have been received.

　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
　Paper No(s)/Mail Date *10/11/06*.

4)☐ Interview Summary (PTO-413)
　Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Information Disclosure Statement

1.   The information disclosure statement (IDS) submitted on October 11, 2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Arguments

2.   Applicant's arguments filed have been fully considered but they are not persuasive.

It is argued by the applicant that the teachings of Baker fail to disclose of a secure streaming container, but rather teaches of streaming packets of encrypted data.

The examiner respectfully disagrees, it is noted that the claims do not specify what constitutes a "secure streaming container" by further limiting the claim language. The examiner is broadly interpreting the secure streaming container as a collection of data that includes the encrypted streaming content, the rights of usage, or DRM, and the executable content, or modules that is used to control playback of the streaming media content. It is taught by Baker of encrypting the streaming media, including information such as a token listing the permissions of the user having for the specific stream, see column 1, line 63 through column 2, line 19 and column 4, lines 1-16.

The applicant argues that Baker fails to disclose of "tags providing at least one of a file size and a file type" and "tags providing access rights".

The examiner disagrees with the applicant's assertion, Baker discloses including

a token listing the permissions of the user having for the specific stream, see column 1,

line 63 through column 2, line 19 and column 4, lines 1-16. The claim language

furthermore does not recite what constitutes a "tag", the examiner is broadly interpreting

the tag as a form of information.

The applicant contends that Baker fails to disclose of Open Mobile Alliance

Standards and Open Data Rights Language

The examiner respectfully disagrees, it is not the applicant's inventive concept of

creating Open Mobile Alliance Standards and Open Data Rights Language. The

applicant's specification refers to both Open Mobile Alliance Standards and Open Data

Rights Language on page 22, lines 4-7 as standards pre-existing at the time of the

applicant's invention. Baker discloses the architecture is usable across the Internet, see

column 3, lines 38-40, and is usable with the teachings of Baker.

Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1-17,25-36,58-87,95-106,133, and 134 are rejected under 35

U.S.C. 102(e) as being anticipated by Baker, US Patent 6,449,719.

As per claims 1,58,59, and 71, it is disclosed by Baker of a method and computer program embodied on a computer readable for creating a accessing streaming content. The digital container is created that includes content including streaming media content and digital rights management, or DRM. Executable modules are selected for inclusion in the digital container and the selection is based on a type of steaming media content and the DRM. The streaming media content of the digital container is encrypted to produce a secured streaming container, or SSC. The SSC, containing the encrypted streaming media, DRM, and the executable modules are transmitted to a target device for access of the SSC from the target device (col. 1, line 60 through col. 2, line 39 and as shown in Figure 2).

As per claims 2 and 72, Baker teaches of transmitting the SSC the Internet (col. 3, lines 38-40) wherein it is interpreted by the examiner that the Internet includes a local area network, a wide area network, and a wireless network.

As per claims 3,60, and 73, Baker discloses of the target device can includes a client device (col. 3, lines 40-43 and col. 4, lines 64-66) and it is interpreted by the examiner that the client device can include a cell phone, PDA, personal computer, computing device, portable music player, tablet computer, cable modem, satellite receiver, television, and a cable television tuner.

As per claims 4,61, and 74, the teachings of Baker recite of the digital container is created by receiving input from the target device, the media files to be included in the digital container, a transaction option type, DRM option, digital container graphic, and a search descriptor data (col. 4, lines 42-46).

As per claims 5,62, and 75, it is taught by Baker transaction option types includes a financial transaction type, a transaction update type, a transaction update address, a server address, demographics type, or a subscription type. The financial transaction type includes a credit card type and the subscription type includes a financial transaction defining a period of time (col. 6, lines 54-60).

As per claims 6,63, and 76, it is disclosed by Baker of selecting executable modules based on a type of media files, which control the stream of on the media files in the environment of the target device (col. 4, lines 9-10).

As per claims 7 and 77, Baker discloses of the digital container graphic is an image that is informational and promotional graphics that appear on a viewable electronic digital container cover before and after the digital container is opened (col. 4, lines 42-46).

As per claims 8,64, and 78, it is disclosed by Baker of encoding the streaming media content for playback by a media player resident on the target device and a media player included with the digital container (col. 3, lines 40-43 and col. 4, lines 64-66).

As per claims 9,65, and 79, the teachings of Baker recite of the streaming media includes video, audio, animation, and text content (col. 3, lines 7-8 and col. 4, lines 30-34).

As per claims 10 and 80, Baker discloses that the streaming media content is streaming media files (col. 3, lines 7-8 and col. 4, lines 30-34).

As per claims 11 and 81, Baker discloses of creating secondary files for inclusion in the digital container wherein the secondary data files include HTML files, an image file and a segment of the media files (col. 3, lines 38-46 and col. 4, lines 11-12).

As per claims 12 and 82, Baker teaches of viewable prior to executing a purchase transaction for the media content, unencrypting for previewing (col. 6, lines 56-58).

As per claims 13 and 83, Baker discloses of an HTML file and image file are viewable during playing of the streaming files (col. 3, lines 38-46 and col. 4, lines 11-12).

As per claims 14,66, and 84, it is taught by Baker of providing an execution batch file in the digital container for controller the presentation of the streaming media content in a preset sequence, a relative sequence, and a timing interval (col. 6, lines 55-58).

As per claims 15 and 85, Baker disclose of establishing limits on access to the streaming media content based on a period of time and the number of access (col. 3, lines 43-45).

As per claims 16 and 86, Baker teaches of limiting a copy of the streaming media content and transferring the streaming media content (col. 4, lines 30-36).

As per claims 17 and 87, it is disclosed by Baker of producing informational and search metadata tags sets wherein tag sets are included in the SSC (col. 1, line 60 through col. 2, line 39).

As per claims 25 and 95, the teachings of Baker recite of registering the SSC with digital container verification database including identifying the SCC and providing date information about the SSC (col. 4, lines 41-46).

As per claims 26 and 96, Baker teaches registering the SSC occurs automatically when it is created (col. 4, lines 41-46).

As per claims 27 and 97, it is disclosed by Baker that the transmitting is via email, FTP, download from a web site, peer to peer sharing, instant message, or physical transport (col. 3, lines 38-46).

As per claims 28 and 98, Baker discloses of encoding the digital container for transmission as an HTML file (col. 3, lines 38-46 and col. 4, lines 11-12).

As per claims 29 and 99, Baker teaches of establishing a transaction type that is to be executed for a user to gain permission to open the SSC, and when executed, the transaction type includes financial data and personal user data (col. 6, lines 54-60).

As per claims 30 and 100, Baker discloses of personal identification includes a user identification number (col. 8, lines 32-46).

As per claims 31 and 101, Baker teaches of personal identification (biometrics) includes fingerprint data (col. 8, lines 32-46).

As per claims 32 and 102, it is taught by Baker of device information includes gathering data from a removable storage media (col. 4, lines 41-46).

As per claims 33 and 103, Baker discloses of a transaction type that includes a subscription type that gathers subscription data enabling a user to purchase multiple digital containers (col. 6, lines 54-60).

As per claims 34 and 104, it is taught by Baker of subscription transaction type gathers subscription data enabling a user to purchase multiple digital containers related to a pre-determined time period (col. 3, lines 43-45 and col. 6, lines 54-60).

As per claims 35 and 105, the teachings of Baker disclose of encrypting includes compressing the contents of the digital container (col. 3, lines 47-54).

As per claims 36 and 106, Baker teaches of incorporating a hidden key into the digital container (col. 4, lines 19-24).

As per claim 67, Baker discloses of controlling access to the streaming media content using the DRM on subsequent access (col. 4, lines 30-36).

As per claim 68, it is taught by Baker of decrypting the streaming media content and playing the streaming media content using a media player (col. 3, lines 37-46).

As per claim 69, Baker teaches of detecting an attempt to access the SSC, determining if permission has been previously granted to open the SSC. If permission has not previously been granted, supplying transaction information, sending the transaction information to a digital container verification server in an encrypted session, sending a permission token back to the SSC, and granting permission to open the SSC (col. 6, line 54 through col. 7, line 6).

As per claim 70, it is disclosed by Baker of playing the streaming media content such that segments of the streaming media are sequentially playing from the digital container while the remaining portions of the streaming media contents remain secure in the digital container until played (col. 3, lines 43-45).

As per claim 133, it is taught by Baker that the streaming content comprises a file

of the streaming media content (col. 2, line 61 through col. 3, line 8).

As per claim 134, Baker discloses wherein the step for accessing occurs after all

portions of the streaming media are present at a client device (col. 1, lines 60-62).

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 18-24 and 88-94 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Baker, US Patent 6,449,719 in view of Hind et al, US Patent

6,941,459.

As per claims 18,20,88, and 90, the teachings of Baker disclose of encrypting

content and of transmission across the Internet, however are silent in disclosing of the

use of extensible markup language, or XML. The teachings of Hind et al disclose of the

use of XML (col. 6, lines 61-65). It would have been obvious to a person of ordinary

skill in the art at the time of the invention to have been motivated to apply the use of

XML. The teachings of Hind et al recite of motivation for the use of securing XML files

since there exists a need to protecting documents and enforcing policies in regards to

usage (col. 6, lines 23-30) and it is known that XML allows for easy exchange of

complex documents across the World Wide Web that is formatted according to rules for

protection. It is obvious that the teachings Baker would have been able to accommodate the usage of XML documents and applying the use of policies in regards to particular XML files.

As per claims 19 and 89, Baker discloses of tag sets that are used by search engines to discover the digital container and the streaming media content (col. 1, line 60 through col. 2, line 39).

As per claims 21 and 91, it is taught by Baker of tags describing portions of the streaming media content and provides a file size and file type (col. 1, line 60 through col. 2, line 39).

As per claims 22 and 92, Baker discloses of tags disclosing access rights to the target device (col. 3, lines 37-46).

As per claims 23 and 93, it is disclosed by Baker of tags providing content file title, key word data, and a key phrase for search descriptors for search engines (col. 1, line 60 through col. 2, line 39).

As per claims 24 and 94, the examiner is interpreting the teachings of Baker to be compliant with Open Mobile Alliance Standards and Open Data Rights Language since it is recited by Baker that the architecture is usable across the Internet (col. 3, lines 38-40).

Conclusion

1.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

2.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Christopher A. Revak whose telephone number is 571-

272-3794. The examiner can normally be reached on Monday-Friday, 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CR

December 21, 2006

CHRISTOPHER REVAK
PRIMARY EXAMINER